

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, et al.,

Plaintiffs,

v.

JASON KESSLER, et al.,

Defendants.

No. 3:17-cv-00072-NKM

JURY TRIAL DEMANDED

**DEFENDANTS DAVID MATTHEW PARROTT, MATTHEW HEIMBACH, AND
TRADITIONALIST WORKER PARTY’S MOTION FOR RECONSIDERATION
REGARDING THE HEAPHY REPORT**

Defendants David Matthew Parrott (“David Matthew”), Matthew Heimbach (“Matthew”), and Traditionalist Worker Party (“TradWorker”) respectfully move the Court for reconsideration of its October 15, 2021 Order excluding the Heaphy Report except for very limited purposes. (*See* ECF No. 1231.) Specifically, Defendants request that the Court consider the Heaphy Report admissible in its entirety pursuant to Federal Rule of Evidence 807.

The Heaphy Report is precisely the kind of evidence for which the Rule 807 “residual exception” exists — *i.e.*, the circumstances surrounding it are extraordinary, and it possesses extraordinary indicia of trustworthiness and reliability. It is the *only* independent investigation of these events in existence. It is more probative than any other evidence which Defendants can procure through reasonable efforts, and this immense probative value cannot possibly be outweighed by any alleged danger of unfair prejudice.

Due to the extremely limited amount of time remaining before trial, the undersigned asks that the Court hear oral argument on this issue in lieu of full briefing. (Plaintiffs' counsel have already briefed this issue in their Motion (*see* ECF No. 1145).)

Respectfully submitted,

/s/ Joshua Smith

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Traditionalist Worker Party*

Dated: October 20, 2021

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2021, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to all counsel of record in the case, as well as all ECF-registered *pro se* parties.

I hereby further certify that on October 20, 2021, I served a copy of the foregoing on the following non-ECF *pro se* parties, via electronic mail, as follows:

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I hereby further certify that on October 20, 2021, I served a copy of the foregoing on the following non-ECF *pro se* party, via first-class mail, as follows:

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